IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

MFA.No. 788 of 2000(B)

OPMV.1027/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, TIRUR
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APPELLANTS: PETITIONERS
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1. **BALAMANI AMMA, AGED 41 YEARS, W/O.V.PADMANABHAN NAIR, VENGAMPATTA, PAYIMBRA, CALICUT DIST. KURUVATTOOR AMSOM, DESOM.**

2. **LISHA, AGED 22 YEARS, D/O.PADMANABHAN NAIR, OF DO. DO.**

3. **SEENA, AGED 19 YEARS, D/O. V.PADMANABHAN NAIR, OF DO. DO.**

4. **NIRMAL, AGED 15 YEARS , S/O. PADMANABHAN NAIR OF DO. DO., (MINOR REP.BY THE NATURAL GUARDIAN AND CUSTODIAN MOTHER BALAMANI AMMA, THE 1ST PETITIONER.**

BY ADV. SRI.N.JAMES KOSHY
SRI.T.SANJAY

RESPONDENTS: RESPONDENTS
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1. **C.MOIDEEN, S/O.MOIDU, CHENOTH HOUSE, VEGETABLE STORES STALL NO.B2, MARKET, TIRUR (R.C. OWNER OF MINI BUS KL 10 / A 1638)**

2. **MOHAMMED KUTTY, AGED 29 YEARS, W/O.KUTTY HASSAN, MAILAM PATT HOUSE, NIRAMARUTHOOR, TIRUR, D.L.NO.1114191/MT. RENEWED UP TO 29.9.96.**

3. **UNITED INDIA INSURANCE CO.LTD., BRANCH D- SUNITHA BUILDING , II FLOOR, DB ROAD, R.S.PURAM, COIMBATORE 641 002.**

BY ADV. SRI.MATHEWS JACOB(SR.)
SRI.P.JACOB MATHEW

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 28/ 05/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

M.F.A. No. 788 of 2000

Dated this the 28th day of May, 2007

Judgment

Koshy, J.

A Peon employed in Government Treasury died in a motor accident due to the negligence of the driver of the vehicle insured by the third respond. His dependents, wife and three children, claimed compensation of Rs.5,00,000/-. Tribunal awarded only Rs.1,91,500/-. Only quantum of compensation is disputed herein.

2. Ext.A11 salary certificate shows that the deceased was getting Rs.2,399/- at the time of death. He was aged 48. There will be annual increments apart from wage revisions as he was a Government employee who was a pensionable employee. It is contended that if he was continued in the employment, he would have got at least double the amount at the time of retirement in view of the wage revisions and increments. However, if he had continued in service he would have retired at the age of 55. Of course, after retirement also, he can earn

something apart from pension on the basis of last drawn salary by him. Vagaries of life cannot be predicted. Therefore, we take Rs.2,400/- as the monthly income and deduct one-third of the same and Rs.1,600/- is taken as loss of dependency. Tribunal has taken only Rs.1,000/- as loss of dependency. Tribunal has taken 13 as the multiplier taking guidelines from the second schedule. We are not interfering in the same. Therefore, compensation payable will be Rs.1600 x 12 x 13 = Rs.249600/-. Tribunal has granted Rs.1,75,500/- towards disability compensation. So, additional compensation payable for loss of dependency will be Rs.74,100/-.

3. Even though it was vehemently contended that amounts granted for loss of consortium and amounts granted under other heads are very meagre, we are not granting any enhancement considering the total amount granted. The additional compensation of Rs.74,100/- should be deposited by the third respondent insurance company within three months from the date of receipt of a copy of this judgment with 9% interest from the date of

application till its deposit. On deposit of the amount, appellants can withdraw the same in equal proportion.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

M.F.A. NO.788/2000

JUDGMENT

Dated:28th May, 2007